1946 K

File No. B. Removal of Disqualifications 1946.

Legal Dept.

B BRANCH

Subject:— A Bill to amend the Bombay Legislature Members (Removal of Disqualifications) Act 1937

File No. B. Removal of Disqualifications 1946

Gen. 194 e.

325-B

No.2209,
Legal Department,
Bombay Castle, 22nd March 1946.

From

P. N. Moos, Esquire, Bar-at-Law, I.C.S.,
Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Legislature Members (Removal of Disqualifications) Act, 1937.

Sir,

With reference to your Memorandum No. G.S. 750 dated the 16th March 1946, on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor a copy of the Bill to amend the Bombay Legislature Members (Removal of Disqualifications) Act, 1937, prepared by His Excellency the Governor of Bombay under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. The subject-matter of the Bill falls under clause (a) of sub-section (1) of section 69 of the Government of India Act, 1935, read with entry No. 11 in the Provincial Legislative List in the Seventh Schedule to the Act. As the Bill does not relate to any matter enumerated in the Concurrent Legislative List, it is not necessary to reserve the Bill for the consideration of the Governor-General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one spare copy of the Bill.

Your obedient servant.
Id/- P.N.M. 20/3/46.

RHB. 16.7.

Secretary to the Government of Bombay,
Legal Department.

No.G.S. 895
Office of the Governor's Secretary
Government House.

From

G. G. Drewe, Esquire, OBE. ICS.
Secretary to the Governor of Bombay,

To

The Secretary to Government,
Legal Department,

Bombay, 25th March 1946.

Subject: The Bombay Legislature Members (Removal of Disqualifications) (Amendment) Bill, 1946.

Sir,

With reference to your letter No.2209, dated the 22nd March 1946, on the above subject, I am directed to return herewith the copy of the Bombay Legislature Members (Removal of Disqualifications) (Amendement, Bill, 1946, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty

Your obedient sergant,

Seal
L.D.

Sd/-

Secretary to the Governor of
Bombay.

RHB.
16.7.

Immediate.

No. 2244
Legal Department.
Bombay Castle, 22nd March 1946.

From
P.N. Moos, Esquire, Barrister-at-Law, I.C.S.
Secretary to the Government of Bombay

To
The Secretary to the Government of India,
Supply Department, New Delhi.

Sir,

I am directed to state that Sir Behram Karanjia, a member of the Bombay Legislative Council was appointed on 1st February 1942 as General Manager on behalf of the Government of India on a fixed salary of Rs. 3,000/- per month plus a share in the profits for the the purpose of managing the Hattersley Mill, Ghatkopar. Sir Behram served his connection as General Manager on 31st December 1945 when he handed over the management to a representative of the Government of India. He now requests through his Solicitors that the Government of Bombay should issue a certificate under section 4 of the Bombay Legislature Members (Removal) of Disqualifications) Act, 1937. The question for consideration is whether Sir Behram Karanjia by virtue of his appointment as General Manager of the Hattersley Mill can be said to have held an office of profit under the Crown in India.

2. Section 69(1)(a) of the Government of India Act, 1935, provides that a person shall be disqualified for being chosen as, and for being a member of a Provincial Legislative Assembly or Legislative Council if he holds any office of profit under the Crown in India, other than an office declared by Act of the Provincial Legislature not to disqualify its holder.

Section 4 of the Bombay Legislature Members (Removal of Disqualifications) Act, 1937, provides that a person shall never be deemed to have been and shall not be disqualified for election as or continuance as a member of the Bombay

Legislative Assembly or the Bombay Legislative Council by reason only that he holds or accepts any office in the service of the Crown in India certified by the Government of Bombay to be an office created for a purpose connected with the prosecution of the war.

It would appear from the Agreement entered into by Sir Behram that he acted as Agent on behalf of the Government of India for the management of the Mill. The Accounts Officer nominated by Government was to be the employe of the Manager and not the Government. All stores and materials in stock or in process were to be valued at the then current market value and charged to the Manager as part of the working capital to be advanced by Government. The Manager was to be responsible for the engagement, employment and disposal of all the staff and workmen engaged or to be engaged for the efficient working of the Mill, and all disputes were to be referred to the sole arbitration of the Secretary ~~for the time being to the Government of India in the~~ for the time being to the Government of India in the Department of Supply whose decision would be final and binding on both parties. The contract was to run for a period extending upto three months after the termination of hostilities. It was however liable to be determined by either party at any time on giving three months' notice. If there was a breach of agreement by either party the other party had the right to terminate the contract forthwith without notice.

3. It is manifest from these terms of the agreement that Sir Behram was employed by the Government of India on a contract basis as Agent for the purpose of running the Hattersley Mill efficiently and economically and not as an officer of Government. In the circumstances his

employment will not it seems attract the provisions of section 4 of the Bombay Legislature Members (Removal of Disqualifications) Act, 1937.

4. Since however he was employed by the Supply Department of the Government of Inida, I am to inquire whether the Government of India agrees with the view expressed above.

Your obedient servant,

Id/- P.N.H.
22/3/46.

Secretaryto the Government of Bombay.

Legal Department.

RHB.
16.7.

No.3680
Legal Department,
Bombay Castle, 16th May 1946.

From

The Secretary to the Government of Bombay,
Legal Department;

To

Messrs. Amarchand and Mangaldas,
Solicitors and Notary Public,
Lentin Chambers, Dalal Street, BOMBAY.

Subject:- Bom. Act I of 1944 being an Act to amend the Bombay Legislature Members (Removal of Disqualifications) Act, 1937.

Gentlemen,

With reference to your letter No.882/46, dated the 4th March 1946, on the above subject, addressed to the Chief Secretary, Government of Bombay, I am directed to state that in the opinion of the Government of Bombay the employment of Sir Behram Karanjia as General Manager of the Hattersley Mill, Ghatkopar, was not such as to attract the provisions of section 69(1)(a) of the Government of India Act, 1935.

Your obedient servant,

Id/- P.N.M.
16/5/46

Secretary to the Government of Bombay,
Legal Department.

RHB.
16.7.

No.13/4-TC/46.
GOVERNMENT OF INDIA.
DEPARTMENT OF INDUSTRIES AND SUPPLIES.

New Delhi, the 15th May 1946.

From

Rao Sahib S.A. Teckchandani, M.A.,
Assistant Secretary to the Government of India.

To

The Secretaryto the Government of Bombay,
Legal Department,
Bombay.

Sir,

With reference to your letter No.2244 dated the 22nd March 1946 about the appointment of Sir Behram Karanjia as General Manager of the Hatterasley Mill copy of which has been forwarded with Mr. Moos' D.O.No.3391 dated 7th May 1946 to the Hon'ble Mr. Shanker A. Lall, I regret to state that neither this letter nor the reminders on it are traceable in this office. Enquiry is being made but possiblythey were miscarried as theywere addressed to Supply Department and not to the Industries and Supplies Department. I am to state that this Department agrees with the view taken in para 3 of your official letter referred to above.

I have the honour to be,
Sir,
Your most obedient servant,

Id/- S.A.CHANDANI, 15/5
(S. A. TECKCHANDANI)
Assistant Secretary.

RHB.
16.7.

Acts.

Publication of the Bombay Legislature Members (Removal of Disqualifications)(Amendment) Act, 1946.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 2414
Bombay Castle, 29th March 1946.

Letter to the Secretary to the Governor, No.2209, dated the 22nd March 1946.

Letter from the Secretary to the Governor, No.G.S.895 dated the 25th March 1946.

"With reference to your letter No.2209, dated the 22nd March 1946, on the above subject, I am directed to return herewith the copy of the Bombay Legislature Members (Removal of Disqualifications)(Amendment) Bill, 1946, prepared by His Excellency the Governor Under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty."

RESOLUTION:- The law should be published as Bombay Act No.X of 1946, in the Bombay Government Gazette dated the 30th March 1946.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

By order of the Governor of Bombay,

Sd/- M.C.Monsani.

Assistant Remembrancer of Legal Affairs.

To

The Manager, Yeravada Prison Press, Poona, (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department.)

The Oriental Translator to Government)
) with a
*The Secretary to the Bombay Legislative) copy of
) the Act.
The Secretary to the Bombay Legislative)
Assembly.)

*with five extra copies.

RHB.
16.7.

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Bombay Act- No. X of 1946.

~~GOVERNOR'S BILL No. Y OF 1946.~~

An Act- ~~*A Bill*~~ *to amend the Bombay Legislature Members (Removal of Disqualifications) Act, 1937.*

WHEREAS it is expedient to amend the Bombay Legislature Members (Removal of Disqualifications) Act, 1937, for the purpose hereinafter appearing; Bom. I of 1937.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature; 26 Geo. 5 Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. This Act may be called the Bombay Legislature Members (Removal of Disqualifications) (Amendment) Act, 1946. Short title.

2. Section 4 of the Bombay Legislature Members (Removal of Disqualifications) Act, 1937, shall be repealed. Bom. I of 1937. Repeal of section 4 of Bom. I of 1937.

P Bk H 1244

3. 165 169 13;

STATEMENT.

Section 4 was inserted in Bom. I of 1937 by Bom. I of 1944, as it was necessary that a person should not be disqualified for election or continuance as a member of either Chamber of the Bombay Legislature by reason only that he held or accepted any office in the service of the Crown in India certified by the Government of Bombay to be an office created for a purpose connected with the prosecution of the war. Since the war is now over and the elections are being held, the reason for section 4 of Bom. I of 1937 no longer exists. It has, therefore, been decided to repeal the said section 4.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.